

Testimony of Kevin Ryan, Child Advocate for the State of New Jersey
Before the Assembly Regulatory Oversight Committee
Thursday, December 8, 2005

Good morning Mr. Chairman and members of the Committee.

It is a pleasure to return to your committee to discuss the care of juveniles with identified mental or behavioral health needs who are locked in our county detention centers. This is the third hearing you have held on this matter this year. I cannot remember an instance where a legislative panel has played so important a role in keeping public attention focused on the treatment of children in juvenile detention centers.

During your June 16th hearing, I offered that we had counted 39 children who were being held illegally in the 17 detention centers one day earlier, which was down from 45 youth in similar circumstances on May 30th. During the hearing, Deputy Commissioner Kathi Way indicated that she expected youth awaiting mental health and child welfare placements would be removed from juvenile jails by September 30th and requested an extension from a deadline of June 30th established within the child welfare reform plan.

Much has happened since that time.

For one thing, we continued to get to know these kids. As part of my office's ongoing advocacy on behalf of illegally detained youth, we toured many of the juvenile jails again this summer and met many youth who, although they were post-disposition, remained locked up. Many were in detention for minor offenses

– riding in a stolen vehicle, violating probation – and some were much tougher kids – but all shared the legal status of being ordered by the court to a non-secure placement – free from detention. And all the post-dispositional kids were waiting for a residential placement.

You may recall that part of our discussion during the first committee hearing in January concerned a lack of resources for these kids. I am very pleased to acknowledge that the Department of Human Services has been working hard in this regard, and has produced meaningful results. In September of this year, the Department reported a significant expansion of beds for children who need mental or behavioral health treatment, including Specialty Residential Treatment beds, Intensive Residential Treatment Centers and Treatment Homes. As of yesterday, I understand that 243 new residential or hospital-based beds have been contracted; 146 are currently operational. Of those 146 new beds, 97 beds, or 66 percent, are in the State of New Jersey. DHS is also working to expand family-based treatment homes for youth and we are in the process of verifying how many of those new homes have come on line.

The data does indicate an increase in out-of-state mental health care for New Jersey youth. The number of children being served out of state increased from 196 youth in January 2005 to 245 youth in September of 2005, a 25 percent increase. To the extent this expansion has decreased the likelihood that children will deteriorate in detention centers awaiting a mental health placement, the growth of non-New Jersey placements clearly has an upside. And some out-of-state placements, particularly those just across our borders, may be closer to a youth's

home than alternative New Jersey-based placements. But many of these placements are distant, and we would do well not to impose upon children the choice whether they linger in New Jersey jails or receive treatment far from their families in out of State placements. This will not be easy; a few communities have already resisted efforts by the State to site programs for these children in certain neighborhoods. There is no magic wand here; capacity building will take time.

Meeting the needs of children is not just about building residential placements. Our commitment to the children of New Jersey in our child welfare reform plan is to help youth stay close to their families and their communities, and whenever possible, afford them the opportunity to receive treatment and services in the community instead of in institutional placements. I have said before, and I will again, that the truest measure of the success of our children's mental health system will be how many children have recovered to the point of living at home, going to school, and enjoying life as a child. Success does not occur just with the expansion of residential programs alone.

DHS has made irrefutable progress in decreasing the illegal detention of children awaiting mental health or child welfare services. The progress was fitful, but unmistakable. On May 30th, we counted 45 illegally held kids; that number dropped to 29 kids on June 30th, 28 kids on July 30th, 30 kids on August 30th, and

then the first steep decline of the summer to 19 illegally held youth on September 15th. Two weeks later, on September 30th, only two illegally held children were present in any juvenile detention center in New Jersey. It was remarkable. We had counted 131 youth who had been detained illegally, post-disposition, awaiting mental health or child welfare services at some point between May 30th and September 30th, but by September 30th, they were almost all gone. We counted – center by center – and time and again, we found the juvenile jails virtually cleared of post-dispositional youth awaiting mental health care.

You should know that on occasion there are minor discrepancies in the number of post-dispositional youth that DHS knows of, and that my Office has tracked. My information source has remained constant: regular contact with the county detention centers. But the challenge is not whether the count is 30 or 25, or 19 or 15. The challenge is the sustainability of the progress evident on September 30th.

There is reason to be hopeful about sustained progress and reason to be concerned. First, the cause for hope. You may remember from your last hearing on this matter that one of the greatest obstacles to resolving this problem has been the lack of a computerized data tracking system for DHS to identify that youth are present in the juvenile jails and in need of mental health or child welfare services. Several of you indicated last time that in an age of ready technology, when we can communicate across the globe in a matter of seconds, or we can track a satellite millions of miles away, it is a poor reflection of our own priorities if we cannot track our most vulnerable kids from the courthouse to the juvenile jail to treatment homes in a fashion that allows us to plan for and end their illegal detention.

On September 30th, I was present at a meeting among the agencies charged to solve this problem, convened by the Office of the Governor. At this meeting, the Administrative Office of the Courts committed to pilot with DHS their joint use of a statewide juvenile tracking system to identify adjudicated and disposed youth in detention centers awaiting DHS services or placements. I know this technology collaboration could go far to help DHS plan for the needs of youth who need mental health or child welfare services. That partnership, in tandem with DHS' very significant expansion in behavioral health placements for youth, could form the basis for long-term sustainability of the September 30th achievement.

The cause for concern is this: the number of illegally held children in detention centers since September 30th has been rising, and their lengths of stay post-disposition in many instances have been more than simply a couple of days. On October 15th, we counted 4 illegally detained youth, a number that rose to 10 youth on October 30th, then 11 youth on November 15th. We are still verifying some of the data for November 30th, but as of yesterday we confirmed that at least 20 youth had been detained illegally, awaiting mental health or child welfare services, at some point between September 30th and November 30th. The good news, for sure, is that this number is much lower than the May 30th count due to DHS' efforts. My apprehension is that this uptick is not what we should expect on the heels of September 30th's landmark achievement.

Yesterday, I was in Bergen County meeting with Howard Beyer and county leaders regarding our collective efforts to ensure the safety of detained children in a dilapidated building Bergen plans to replace. One of the current building's central drawbacks is that every cell must be manually locked and unlocked, making timely evacuation difficult when the detention population exceeds 14 youth. As a result,

the Bergen County Executive has decided to request a cap on the facility of 14 youth, which I support. Yesterday, there were 16 youth in Bergen's juvenile detention center, in part because three youth who had been disposed for a mental health or child welfare placement on November 28th continued to languish illegally behind bars waiting for placement. Their continued presence in detention negatively impacts not just those individual children, but also all the residents and staff of the facility should an evacuation be necessary.

The continued illegal detention of post-dispositional children who need mental health or child welfare placements indicates there is still work to be done to make this reform endure. I don't think this is an impossible task, but I believe the fitful pace of progress to date reveals how difficult it will be to end – truly end – the illegal detention of our youth. Those who say to you that no progress has been made in this area are simply not paying attention; those who tell you the problem is solved are way ahead of themselves.

Progressive reform of children's services is not for the faint of heart. Systems designed to step in when poverty overwhelms, illness afflicts and families break down will never be fail-safe. Even in jurisdictions with the best systems, tragedies occur. When they do, accountability, institutional learning and mid-course correction, if warranted by the facts, are necessary. This is a marathoner's challenge, and must be approached as such.

I thank you for the opportunity to be with you today and welcome your questions.